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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Arturo Contini et al. Confirmation No. : 2457
Serial No. : 09/897,986 Art Unit : 1761
Filed : July 5, 2001 Examiner : N. Bhat
For : BALSAMIC SAUCE FOR ALIMENTARY USE, WITH A BASIS OF
BALSAMIC VINEGAR OF MODENA

Notice of Allowance Mailed : October 1, 2003

Issue Fee Paid : October 22, 2003

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New York, New York 10022

CERTIFICATE OF EXPRESS MAILING

I hereby certify that the correspondence is being deposited with the United States Postal Service "Express Mail Post Office To Addressee" service under 37 C.F.R. 1.10 on the date indicated below, addressed to: MAIL STOP ISSUE FEE, COMMISSIONER FOR PATENTS, P. O. Box 1450, Alexandria, VA 22313-1450 on June 5, 2003.

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CONRADO DELA CRUZ

Signature:

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

LETTER PURSUANT TO CFR 1.97(i)

Applicants respectfully request that the enclosed references, and Form PTO 1449 listing the same, be placed in the file of the above-identified application for interested members of the public. The enclosed references were cited in a European Search Report issued on August 26, 2003 in EPO Application No. EPO1128816 (the "ESR") which corresponds to the above-identified application. The ESR cited four (4) "X" references and two (2) "Y" references, against originally pending EPO claims 1-9, none of which correspond to allowed claims 14-17 in the

referenced U.S. application. The ESR was not communicated to the applicant's U.S. counsel until November 7, 2003.

The references cited in ESR are not considered to be of particular relevance to the allowed claims. Applicants have reviewed the references and believe that they do not establish, alone or in combination, a prima facie case of unpatentability of any allowed claim of the above-identified application for at least the reasons set forth below:

U.S.P.No. 5,855,644 - All of the allowed claims in the referenced application are directed to a sauce which contains at least 40% balsamic vinegar of Modena. The cited patent does not reference balsamic vinegar of Modena, but rather only conventional balsamic vinegar. Further, the concentration of balsamic vinegar contained in the sauce of the cited patent is only about 11%. (See Col. 4, lines 49-50.)

WO 00 67750 - This reference is not directed to a product containing balsamic vinegar of Modena. To the extent the product of this reference contain balsamic vinegar, the concentration of balsamic vinegar in the sauce is only about 3%. (See, page 19, line 15.)

U.S.P.No. 5,565,233 - This patent is irrelevant to the presently claimed invention as it is directed to a balsamic vinegar preparation which is white or clear in color. As such, even if one were to characterize the product made by this reference as balsamic vinegar of Modena, the composition so made is 100% balsamic vinegar. It is not a thickened sauce of the type described and claimed in the instant application.

French Patent Publication No. 2,793,165 - is directed to a food-grade emulsion which contains an aqueous phase which may comprise balsamic vinegar. The French patent publication makes no reference to balsamic vinegar of Modena. To the extent that the described emulsion may contain any vinegar, it is limited to 0.1 to 20% vinegar in water.

U.S.P.No. 4,632,840 - This reference from the EPO Search Report is directed to a process for making a dressing comprising W/O/W type multiple emulsions, wherein the outer aqueous phase is prepared by adding an additive, which may be vinegar (col. 2, line 49), to water (col. 2, lines 35-39). The patent makes no reference to balsamic vinegar of Modena, and the only example in the patent which references vinegar describes adding 1000g of brewed vinegar to 3000g of water with 700g of constarch, 200g of sugar and 90g of salt. Accordingly, the concentration of vinegar in the aqueous phase described in this reference is only approximately 20%.

Patent Abstract 5 of Japan, Volume 008, No. 236 (C-249), 30 October 1984 and Database WPI, Section Ch., Week 198434, Derwent Publications Ltd., London, GB; Class D13, Page 3, AN 1984-209333 - These publications are directed to a bamboo containing sauce which may include 1-30 weight percent of a seasoning, which may be vinegar. The reference does not describe the use of balsamic vinegar of Modena, nor a basic preparation with lactose, dehydrated glucose syrup and maltodextrin, among other ingredients.

For at least the foregoing reasons, none of the references cited in the EPO Search Report are believed render the allowed claims unpatentable.

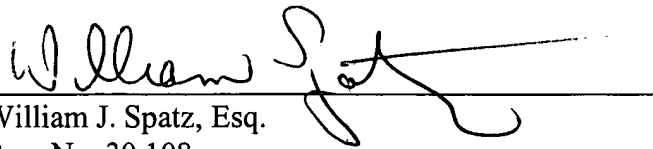
Copies of each of the above reference are enclosed along with an English language abstract for French Patent Publication No. 2793165. A complete English language translation of this reference is not readily available to applicant.

No fee is believed to be due with respect to this filing. However, if any fee is due, the Commissioner is hereby authorized to charge any such fee to Deposit Account No. 50-0540.

A duplicate copy of this communication is enclosed for charging purposes.

KRAMER LEVIN NAFTALIS & FRANKEL LLP
CUSTOMER NO. 31013

By:

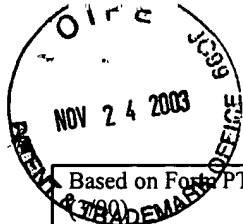


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Based on Form PTO-1449	ATTY. DOCKET NO. 058081-00002	SERIAL NO. 09/897,986
LIST OF REFERENCES CITED BY APPLICANT (Use several sheets if necessary)	APPLICANT Contini, Arturo	
	FILING DATE July 5, 2001	GROUP 1761

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE	
	AA	4,632,840	12/1986	Takahashi et al.				
	AB	5,565,233	10/1996	Alessi				
	AC	5,885,644	3/1999	Dean				
	AD							
	AE							
	AF							
	AF							

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
	BA	2793165	11/2000	France				
	BB	WO 00 67750	11/2000	Europe				

OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)

✓	CA	Patent Abstracts of Japan, Vol. 008, No. 236 (C-249), 30 October 1984 for JP 59 120074, A Nisshin Seifun KK; Others
✓	CB	Database WPI, Derwent Publications Ltd., London, GB; Section Ch, Week 198434, Class D13, Page 3, AN 1984-209333 for JP 59 120074, A Nisshin Seifun KK; Others
✓	CC	European Search Report in EP 01128816, 26 August 2003, Adechy M
✓	CD	Database WPI, Derwent Publications Ltd., London, GB; AN 2001-082993/200110; Abstract for FR.2793165

EXAMINER

DATE CONSIDERED

* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

USCOMM-DC 80-3995